

UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK

-----X  
EVELYN GAINES, individually and as mother and  
natural guardian of TYLER GAINES,

Plaintiff,

-against-

**ANSWER TO  
DEFENDANTS'  
COUNTERCLAIM**

DISTRICT COUNCIL 1707 HEALTH AND  
INSURANCE FUND, DISTRICT COUNCIL 1707  
HEALTH AND BENEFIT FUND and THE BOARD OF  
TRUSTEES OF THE DISTRICT COUNCIL 1707 HEALTH  
AND INSURANCE FUND,

Defendants.  
-----X

08-CV-4229  
(RMS)

Plaintiff EVELYN GAINES, individually and as mother and natural guardian of  
TYLER GAINES, in response to Defendants' Counterclaim, allege as follows:

1. Deny knowledge and information sufficient to form a belief as to the truth of the  
allegations contained in paragraph 62.
2. Deny the allegations contained in paragraph 63 except admit that Evelyn Gaines did  
suffer a Fourth degree laceration of the rectovaginal area resulting from the extension of an  
episiotomy during the birth of Tyler Gaines requiring surgical interventions.
3. Deny the allegations contained in paragraph 64 except admit that Evelyn Gaines did  
seek recovery from Jacqueline Monaco Bavaro, White Plains Obstetrics and Gynecological  
Associates, LLP, and White Plains Medical Center in Supreme Court, Bronx County, Index Number  
6456/05 alleging that they caused her to suffer a Fourth degree laceration of the rectovaginal area  
resulting from an extension of the episiotomy during the birth of Tyler Gaines requiring surgical

interventions.

4. Deny knowledge and information sufficient to form a belief as to the truth of the allegations contained in paragraph 65.

5. Deny knowledge and information sufficient to form a belief as to the truth of the allegations contained in paragraph 66.

6. Deny the allegations contained in paragraph 67.

7. Deny the allegations contained in paragraph 68.

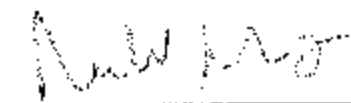
8. Deny the allegations contained in paragraph 69.

WHEREFORE, plaintiffs demand judgment dismissing the counterclaim, awarding plaintiffs costs and disbursements in connection with this action, and for such other and further relief as this court deems just and proper.

Dated: New York, New York  
June 4, 2008

GAIR, GAIR, CONASON  
STEIGMAN & MACKAUF  
Attorney for Plaintiffs  
80 Pine Street, 34<sup>th</sup> Floor  
New York, New York 10005

By:



RICHARD M. STEIGMAN (RMS-2527)

**AFFIDAVIT OF SERVICE**

STATE OF NEW YORK     )  
                                      ) SS.:  
COUNTY OF NEW YORK )

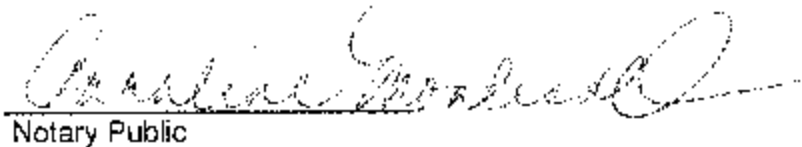
I, **Jazmin Parra**, being sworn say: I am not a party to the action, am over 18 years of age and reside in Queens Village, New York.

On June 4, 2008, I served a true copy of the annexed **ANSWER TO DEFENDANT'S COUNTERCLAIM** by mailing the same in a sealed envelope, with postage prepaid thereon, in an official depository of the U.S. Postal Service with the State of New York, addressed to the last known address of the addressee(s) as indicated below:

To:    **CAMPBELL & ASSOCIATES, P.C.**  
      **99 Tulip Avenue, Suite 404**  
      **Floral Park, New York 11001**

  
Jazmin Parra

Sworn to before me on  
June 4, 2008

  
Notary Public

CAROLINE MONTENEGRO  
Notary Public, State of New York  
No. 01600000000000000000  
Commission Expires April 13, 20 10